

FILED

OCT 31 2014

Clerk, U S District Court
District Of Montana
Billings

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER MICHAEL EMTER,

Defendant.

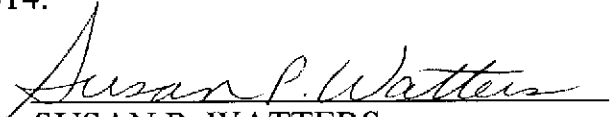
CR 14-89-BLG-SPW

OPINION AND ORDER

Before the Court is Defendant Christopher Michael Emter's Motion to Dismiss for Rules Violations and Speedy Trial Act. (Doc. 15). Emter's motion to dismiss is denied because this Court was divested of jurisdiction over Emter's case once he appealed to the Ninth Circuit. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (Once a notice of appeal is filed, the district court is divested of jurisdiction over the matters being appealed); *see also McClatchy Newspapers v. Central Valley Typographical Union No. 46*, 686 F.2d 731, 734 (9th Cir.1982). This rule is judge-made; its purpose is to promote judicial economy and avoid the confusion that would ensue from having the same issues before two courts simultaneously. *Masalosalo v. Stonewall Ins. Co.*, 718 F.2d 955, 956 (9th Cir.1983); 20 James Wm. Moore, *Moore's Federal Practice*, § 303.32[1] (3d ed.2000).

The rule's purpose is particularly applicable in this case because Emter's second motion to dismiss contains essentially the same request for relief ("Defendant was not arraigned (sic) upon motion and was not granted Dismissal of these facts") as his previous motion to dismiss which was denied by this Court and is up on appeal ("said warrant, hold, detainer were (sic) placed on Defendant by A.T.F. but no arraignment (sic) was granted within 72 hours). Accordingly, IT IS HEREBY ORDERED that Emter's Motion to Dismiss for Rules Violations and Speedy Trial Act (Doc. 15) is DENIED.

DATED this 30th day of October, 2014.


SUSAN P. WATTERS
United States District Judge